

From: david(u)s(u)02330
To: Microsoft ATR
Date: 11/17/01 11:02am
Subject: Justice Department vs Microsoft

Dear Representative,

My two greatest concerns with the current Microsoft agreement are the punishment portion and the authority of the oversight panel.

As far as I can tell, Microsoft is not being punished for it's years of illegal behavior that they've been convicted of, but rather have been put on probation. A panel of three probation officers (two of which will be chosen with Microsoft's influence) will monitor Microsoft's behavior. I fail to see any more punishment than that. I personally don't believe Microsoft will give complete and accurate information to it's competitors about how to efficiently interact with its operating system (especially if it offers competing products). I also don't believe they will stop trying to intimidate the hardware vendors. Perhaps they will be less blatant about it, but not stop.

I believe that the most optimistic outcome of this settlement will be that Microsoft will walk a fine of aggressively working against the spirit of the settlement while simultaneously trying to meet the letter or the law (as Microsoft interprets it, which is interesting because I don't think that they believe Microsoft has done anything wrong).

When (and not if) Microsoft breaks the law again, it is unclear to me what the above mentioned panel has the authority to do. Can they shut Microsoft down, levy fines, arrest executive officers, or is it back to court we go? My guess is that it's back to court. I say this with the believe that Microsoft will legally challenge any decision of the oversight panel.

In general, why rush the settlement (which is not in Microsoft's interest) if it's only going to lead to more courtroom battles?

regards,
Dave Sheehan